

Honorable Janet Sanders
c/o Antitrust Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02133

Dear Judge Sanders,

Thank you for creating and extending a public comment process on the important issues raised in the Partners case.

I am writing to urge that you approve Partners absorption of more hospitals, exactly as it has been proposed by Attorney General Coakley. I urge this because I believe strongly in economic justice, and much of the public debate on this issue has turned this concept on its head.

This is not an unconditional endorsement: in truth, I would have preferred that the Attorney General push Partners to absorb the North Adams Regional Hospital, which closed recently. This closure left about 500 workers without jobs in that troubled city, and the entire population of the city and its natural service area with the closest hospital over 30 miles away, one more impediment to attracting economic growth.

However, in fairness, by imposing statewide price and growth controls the Attorney General has already pushed the boundaries of her statutory authority over the South Shore merger.

I believe that Partners Healthcare, and its proposed mergers, is not part of the problem facing health care in Massachusetts, but part of the solution, by providing quality health care to more people. If Partners gets reimbursed at a higher rate than others in order to provide high quality health care, the solution to that problem is more than likely to provide higher payments to other hospitals who provide high standards of health care, not to lower the rates to Partners and risk undermining their success.

There is a flaw in the theory of a health care "market" that lead to a challenge of the Partners' merger, and to the general theory of competition as the key to cost control.

But health care should not be dominated by market theories of cost control. This leads inexorably to lower-income people "choosing" lower quality care.

The theory that health care costs should be managed through market competition ignores the fact that for quality health care to be available, health care organizations need to produce the capacity, and develop means to finance it. A strange aspect of this currently fashionable theory is that the Partners group is part of the problem because they have developed enough market clout (through their size and the attractiveness of the quality they provide) to defend themselves against insurance companies and budget cutters. Insurance companies focus their efforts on reducing cost (without also being accountable for lowering quality), while government budget cutters persistently "solve" fiscal problems by underfunding Medicaid and Medicare reimbursement. Somehow,

insurance companies and government budget cutters have often been portrayed recently as part of the solution.

What the cost-competition market theorists ignore is that innovations in available techniques to improve health care almost always involve HIGHER cost, and that once superior techniques are available, people want access to them, resulting in persistent upward pressure on cost. If more hospitals want to join Partners because of their success in funding and providing better care, that is rational and desirable, and a good example of quality based competition available in Eastern Mass.

Oddly, the same proponents of "competition", who raise concerns about the market power of Partners to "damage competitive balance " in eastern Massachusetts, ignored the fact that the demise of the North Adams Regional Hospital left Berkshire County captive of a monopoly provider, providing inherently less accessible care to a captive population. As I mentioned above, the closure of the North Adams Regional Hospital is a much more serious example of market failure, and that the strength of the Partners group should have been used to address that market failure.

Cost control by regulation requires that health care professionals make difficult, but hopefully ethical decisions about appropriate levels of care. On the other hand, market theory has the "invisible hand" of the market make decisions that may not be ethically defensible, but no one needs to be accountable for the decision, because "the market did it." But people choose a health care provider based much more on their belief in the quality of care they will receive. In the relatively affluent eastern Massachusetts area, enough people have chosen the high quality care of Partners', so that standard is available to all of us, and other providers must strive for that high standard in order to compete. If their rates are not high enough to allow them to provide such a high standard, again, I believe that the appropriate remedy is to increase their rates to the Partners level, not vice versa. The South Shore Hospital and Hallmark Health Systems have sought to join Partners in order to provide that high standard of care to their patients, an ethical decision that deserves respect.

People who live in the less affluent Western Massachusetts area do not have such choices. They have lost their hospital, its patient care, and its jobs. I am sure that costs will be lower in the Western Massachusetts area with the North Adams Regional Hospital closed. The closure "saved" money by eliminating about 500 jobs, and the level of care previously available to people in and near North Adams. This is not, in my judgement, an ethical way for us to "save " money.

The case before you is about whether the hospital patients and workers of the South Shore Hospital and Hallmark Health Systems areas are to be put through the same trauma now affecting North Adams, or be allowed to choose to join the high quality Partners' Healthcare system. Unlike North Adams, there will be no geographic monopoly, as there are many strong competing hospitals in close proximity, including other teaching hospitals.

I admit to having a strong personal interest in this matter. Our youngest daughter is alive today only because of the dedicated care she received as an infant at Brigham and Woman's Hospital. Our youngest grandson is alive today only because of the quality care he received at Brigham and Woman's as an infant and later as a young child at the Mass General Hospital. I thank God that as a Boston resident those options were available to us. If we lived in Mississippi, we would not have had such options.

Senator Kennedy used to explain his lifelong pursuit of access to health care for all in the following manner. "As a United States Senator, my life was saved because of access to very high quality medical care. I believe that every American should have the same access that I have enjoyed as a US senator." He didn't talk about cost containment; he spoke of a basic human right that ought to be available to all.

Unfortunately the clarity of his vision is less prevalent today, when we hear that one of the architects of US health care policy - Ezekiel Emanuel - believes that people shouldn't have care available after the age of 75!

In this case you must apply legal principles, but you can apply them in the service of justice, or in a narrow manner to deprive people of the care that should be their birthright. The human issues here are clear. Will the patients of South Shore Hospital have access to the highest available health care options, or not? I urge you to find for the validity of the Partners' merger, and further urge you to encourage Partners to assume responsibility for re-opening North Adams Regional Hospital.

Please approve the consent judgment.

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